

MEMORANDUM

DATE: October 15, 2007

TO: Mr. Harry Hill, Director
Division of Medicaid and Medical Assistance

FROM: Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: 11 DE Reg. 314 [DMMA Final LTC Promissory Note & Life Estate Regulation]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Medicaid and Medical Assistance's (DMMA) final regulations covering valuation of promissory notes and life estates in the context of the long term care (LTC) Medicaid program. The regulations were published as 11 DE Reg. 314 in the September 1, 2007 issue of the Register of Regulations.

As background, SCPD commented on the proposed version of these regulations in February 2007 and in April, DMMA adopted final regulations which incorporated all SCPD recommendations with one exception, i.e., it deleted an authorization for a note holder to demonstrate that a note's value is less than its outstanding principal balance. SCPD solicited reconsideration by the Medicaid Director who agreed with the Council's concern. A conforming proposed regulation was then published [11 DE Reg. 20 (July 1, 2007)].

SCPD endorsed the July version of the regulation subject to two amendments to §20330.3.1. First, it recommended insertion of "or" between "loan," and "mortgage". Second, it recommended substitution of "instrument" for "agreement". DMMA agreed with both suggestions and incorporated the changes into the final regulations. DMMA also effected some other non-substantive amendments to clarify intent.

SCPD certainly appreciates that the Division favorably considered the Council's recommendations. Thank you for your consideration of our comments.

cc: Ms. Sharon L. Summers
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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